

Sitg: Syntex Facility
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY # 118128  
REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:

SYNTEX AGRIBUSINESS, INC.  
SPRINGFIELD, MISSOURI,

RESPONDENT

Docket No. 88-F-0011

ADMINISTRATIVE ORDER

Proceedings Under Section  
106(a) of the Comprehensive  
Environmental Response,  
Compensation, and Liability  
Act of 1980, as amended by  
the Superfund Amendments and  
Reauthorization Act of 1986,  
42 U.S.C. § 9606(a).



118128  
SUPERFUND RECORDS

ARTICLE I - INTRODUCTION

A. Jurisdiction

This Administrative Order (A.O.) is issued by the Regional Administrator of Region VII of the United States Environmental Protection Agency (EPA or Agency) to Syntex Agribusiness, Inc., (hereinafter referred to as the Respondent or Syntex), pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. No. 99-499, 42 U.S.C. § 9606(a), and delegated to the Administrator of EPA on January 23, 1987, by Executive

Order 12580, 52 Fed. Reg. 2923 et seq., and further delegated to the Regional Administrator by EPA Delegations Nos. 14-14-A and 14-14-C, dated April 16, 1984, and February 26, 1987, respectively. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), the State of Missouri has previously been notified of this ADMINISTRATIVE ORDER.

B. Statement of Purpose

1. This ADMINISTRATIVE ORDER is issued to order Respondent to remove sludge and other materials (hereinafter Springfield Materials) contaminated with hazardous substances, from a temporary storage facility located at its plant site in Springfield, Missouri, to the Denney Farm Site located in Barry County, Missouri.

2. Additional response or corrective actions, consistent with the provisions of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments (HSWA) are not addressed in this ADMINISTRATIVE ORDER.

C. Parties

1. This ADMINISTRATIVE ORDER shall be binding upon the Respondent, its successors, assigns, subsidiaries, as set forth herein, and EPA; and upon all persons, agents, contractors and consultants acting under or for either the Respondent or EPA or both in carrying out the actions required by this ADMINISTRATIVE ORDER.

2. The Respondent shall provide a copy of this ADMINISTRATIVE ORDER to each contractor, subcontractor, laboratory, and consultant retained to conduct any portion of the work performed pursuant to this ADMINISTRATIVE ORDER prior to said contractor's, subcontractor's, laboratory's or consultant's initiation of work conducted under this ADMINISTRATIVE ORDER.

3. In the event of any change in ownership, or corporate or partnership status of Respondent, Respondent shall provide a copy of this ADMINISTRATIVE ORDER to such transferee in interest, notify EPA in writing of such change in ownership, corporate or partnership status, and provide EPA with a copy of a transmittal letter to the new owner, corporation, partnership, or other legal entity which evidences that a copy of this ADMINISTRATIVE ORDER was provided to them by such Respondent.

## ARTICLE II - FINDINGS OF FACT

1. Respondent is a Delaware corporation authorized to do business in the State of Missouri and is engaged in the production and sale of food additives.

2. Respondent owns and operates a plant located at 2460 West Bennett, Springfield, Missouri (Facility). The Facility is bounded on the south and east by Jordan and Fassnight Creeks, which combine to the south to form Wilson Creek. It is bounded to the north by Bennett Street and a mobile home park and to the west by recreational fields. The legal description of the Facility is attached hereto as Exhibit A and incorporated herein by reference.

3. As part of its hazardous waste management activity, Respondent has disposed of material defined as hazardous wastes and hazardous substances in two surface impoundments. These hazardous wastes are defined in accordance with Section 3001 of RCRA, 42 U.S.C. 6921.

4. The surface impoundments, which lay side-by-side, are commonly referred to as the Old Lagoon and the Interim Status Lagoon (ISL). Both lagoons were constructed in approximately 1960 and were unlined. They received, among other things, wastes from Respondent's analytical laboratory operations, wastes from Respondent's pilot plant operations for producing trichlorophenol as well as process wastes from the lagoon at Respondent's Verona, Missouri facility. The Old Lagoon was filled in 1975 and is partially covered by a triangular drum storage area. (An illustration of the Facility is attached hereto as Exhibit B.)

5. The ISL is located to the north of the Old Lagoon. As was the Old Lagoon, the ISL was constructed on the bedrock surface at a depth of approximately 10-15 feet. It continued to receive the aforesaid hazardous wastes and hazardous substances until approximately March 1982.

6. From April 8 to May 23, 1983, Respondent installed groundwater monitoring wells in the vicinity of the surface impoundments. Thereafter, in August 1983, Respondent collected samples from said wells. Laboratory analysis of these samples

indicated that substantial concentrations of hazardous wastes and hazardous substances had been detected in the groundwater. A list of these hazardous wastes and hazardous substances is attached hereto as Attachment 1, and incorporated herein by reference.

7. Two distinct water-bearing zones have been identified underneath the Facility: the upper aquifer and the deep aquifer. The deep aquifer is a major public water supply source in the Springfield area.

8. The aquifers beneath the Facility exist within a karst terrain. In a karst terrain the movement of contaminants is difficult to predict because of the channeling and cavities found within the geologic stratum. The upper aquifer is, in general, a low-yielding aquifer, although private wells in the Springfield area yield sufficient water from it for individual use.

9. The deep aquifer is separated from the upper aquifer by a regional aquitard, the Northview Formation. The deep aquifer is used heavily in the Springfield area and a cone of depression exists therein with its center roughly in the city of Springfield and extending outward past the Facility.

10. On or about January 11, 1986, Respondent submitted its "Preliminary Draft Hydrogeology Report, Springfield, Missouri Plant," which sets forth the following conclusions:

- a. The lagoon is a source of recharge to the groundwater in the alluvium;
- b. The bedrock is in hydraulic connection with the gravel, so the lagoon is indirectly a source of recharge to the bedrock;

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- c. The hydraulic conductivity of the alluvium is generally moderate to low, in the range of  $1 \times 10^{-3}$  cm/s to  $1 \times 10^{-4}$  cm/s;
- d. The direction of the groundwater movement in the alluvium is to the south to southwest, toward Jordan and Wilson Creeks;
- e. The hydraulic conductivity in the bedrock is variable, ranging from very low in the unfractured rock to very high (open channel flow) in solution cavities;

11. Private and public wells have been identified by EPA, Missouri Department of Natural Resources (MDNR), the Greene County Health Department and the Missouri Division of Geology and Land Survey as shown in Exhibit C, attached hereto and incorporated herein by reference.

12. The hazardous constituents found in the groundwater at the Facility contain concentrations of both known and probable human carcinogens. Based on the EPA Office of Drinking Water Health Advisories, the concentrations of benzene, carbon tetrachloride, 1,2 dichloroethane, dichloroethane and 2,3,7,8-TCDD found in the groundwater at the Facility greatly exceed acceptable levels in drinking water and cause toxic health effects such as liver and/or kidney damage, when consumed for the duration shown in Exhibit D, attached hereto and incorporated herein by reference.

13. An Emergency Directive dated September 14, 1982, was issued by the MDNR and Emergency Permit #MOP00000201 was issued by EPA.

14. On September 20, 1983, MDNR determined there was a hazardous substances emergency in the vicinity of the surface

impoundments and issued an Order to Clean Up Hazardous Substance (Order #IH-83-0001), pursuant to Missouri's Hazardous Waste Management Law (hereinafter Missouri Order).

15. The Missouri Order required, among others, Syntex "to abate the hazard created by their hazardous waste surface impoundment located at their facility, at 2640 W. Bennett, Springfield, Missouri ...."

16. Said Missouri Order was amended October 20, 1983, by a document titled, "Amendment to Order to Clean Up Hazardous Substance."

17. Pursuant to a consent order dated July 7, 1984, between Respondent and MDNR, Respondent constructed a temporary storage unit at the Facility, excavated and stored the sludge from the ISL in said unit where it remains as of the date of this ADMINISTRATIVE ORDER. Respondent currently has interim status to operate the storage unit pursuant to the Resource Conservation and Recovery Act (RCRA).

18. The aforesaid storage unit was intended to serve as a temporary storage unit for the sludge until such time as a facility became available to properly treat or dispose of same.

19. Respondent also has the following hazardous substances in storage at the Facility:

Material

EPA Waste Code

Solvent contaminated soils

F002, F003, F005, MP21

Filter residue from waste-water treatment facility

F002, F003, F005, MP21

Material

EPA Waste Code

Organic materials from  
groundwater recovery  
wells

F002, F003, F005, MP21

Spent carbon from waste-  
water treatment facility

F002, F003, F005, MP21

20. EPA's Mobile Incineration System (MIS), located at the Denney Farm Site, treats hazardous wastes in compliance with Sections 3004 and 3005 of RCRA, and the Missouri Hazardous Waste Management Law.



ARTICLE III - CONCLUSIONS OF LAW

EPA concludes the following, based on the aforesaid FINDINGS OF FACT:

1. Respondent is a "person" as defined in Section 101(12) of CERCLA, as amended, 42 U.S.C. § 9601(12), and Section 1004(15) of RCRA, 42 U.S.C. 6903(15).

2. The manufacturing plant located at 2460 West Bennett, Springfield, Missouri, is a "facility" within the meaning of Section 101(9) of CERCLA, as amended, 42 U.S.C. § 9601(9), and is a solid waste management facility as defined by Section 1004(29) of RCRA, 42 U.S.C. 6903(29).

3. The materials in storage at the Facility described in paragraphs 18 and 19 above (hereinafter Springfield Materials) are "hazardous substances" as defined in Section 101(14) of CERCLA, as amended, 42 U.S.C. § 9601(14), and are hazardous wastes as defined by 40 CFR Part 261.

4. The actual spillage, leakage and escaping of hazardous substances and wastes, and the potential therefor, at and from the surface impoundment at the Syntex facility and the presence of hazardous substances and hazardous constituents in the soil and groundwater at and contiguous to the Springfield facility constitute an actual or threatened "release" into the environment as defined by Sections 101(22) and 106(a) of CERCLA, as amended, 42 U.S.C. §§ 9601(22) and 9606(a).

5. The activities described in Article V.A. of this Order constitute "removal" actions as defined by Section 101(23) of CERCLA, as amended, 42 U.S.C. § 9601(22).

ARTICLE IV - DETERMINATIONS

Based on the foregoing findings of fact and conclusions of law, and the administrative record, the Regional Administrator has determined that:

A. There may be an imminent and substantial endangerment to the public health or welfare or the environment because of the presence of an actual or threatened release of hazardous substances and hazardous wastes at or from the Facility;

B. In order to protect public health and welfare and the environment, it is necessary that the removal actions set forth and required by this ADMINISTRATIVE ORDER be taken to mitigate the release and/or threat of release of hazardous substances and hazardous wastes from the Springfield facility; and

C. The actions required by the terms of this ADMINISTRATIVE ORDER are in the public interest and are consistent with the National Contingency Plan, 40 C.F.R. Part 300.

ARTICLE V - ORDER

The Respondent shall undertake all actions required by the provisions of this ADMINISTRATIVE ORDER. All work performed pursuant to this ADMINISTRATIVE ORDER shall be under the direction of qualified personnel. The Respondent shall notify EPA as to the identity of such personnel and of any contractors and sub-contractors to be used in carrying out the activities required by this ADMINISTRATIVE ORDER and obtain EPA's approval prior to their use.

Based on the foregoing, it is hereby ORDERED as follows:

A. Removal Activities.

1. The removal actions required by this ADMINISTRATIVE ORDER shall be conducted in accordance with the National Contingency Plan (NCP), 40 C.F.R. Part 300 and CERCLA, as amended by SARA.

2. Within ten (10) days of the effective date of this ADMINISTRATIVE ORDER, the Respondent shall submit a Work Plan for implementation of a removal action to remove Springfield Materials from Respondent's temporary storage facility at its Springfield facility and to transport Springfield Materials to the Denney Farmsite. The Removal Work Plan shall provide the schedule and implementation instructions which Respondent, its contractor(s) and/or subcontractor(s) will follow in conducting the removal action pursuant to this ADMINISTRATIVE ORDER and shall include, at a minimum; details on what and how Springfield Materials will be removed from the storage facilities at the Springfield Facility, the schedule for implementation of the removal action, the documentation and records to be maintained relating to the removal actions, and transportation and safety procedures to be utilized during the removal action. The Removal Work Plan is subject to EPA review, modification and approval and shall be in accordance with all EPA guidances and policies.

3. Upon approval by EPA, the Removal Work Plan shall be considered incorporated by reference into this ADMINISTRATIVE ORDER.

4. Immediately upon approval thereof, Respondent shall implement the Removal Work Plan according to the schedules contained therein.

B. Authorized Representatives

1. Respondent shall within five (5) days of receipt of this ADMINISTRATIVE ORDER, designate an individual as the technical representative who shall be authorized to represent Respondent in all matters pertaining to this ADMINISTRATIVE ORDER. Said representative shall have authority both to receive all reports, comments, notifications, and other correspondence from EPA pursuant to this ADMINISTRATIVE ORDER and to convey decisions on behalf of the Respondent.

2. EPA designates the following named person as its technical representative: \_\_\_\_\_.

Communications between Respondent and EPA that concern technical issues and/or matters shall be directed through the EPA technical representative and the Respondent's technical representative.

C. Record Preservation and Availability of Information

1. Respondents or their agents, contractors, subcontractors, shall preserve, during the pendency of this ADMINISTRATIVE

ORDER and for a minimum of seven (7) years after its termination, at least one copy of all records and documents in their possession or in the possession of their divisions, employees, agents, accountants, or contractors which relate in any way to the Springfield Facility or work performed pursuant to this ADMINISTRATIVE ORDER, notwithstanding any document or record retention policy to the contrary. Such records include, but are not limited to, sampling records, results of analyses, chain-of-custody records, manifests, trucking logs, receipts, reports, records of destination of Springfield Materials, correspondence and other documents created or produced pursuant to this ADMINISTRATIVE ORDER. After this seven (7) year period, Respondent shall notify EPA at least sixty (60) calendar days prior to the destruction of any such document. Upon request by EPA, Respondent shall make available to EPA such records or documents, or copies thereof, if requested by EPA within the said sixty (60) day period.

2. Upon written request from EPA, Respondent shall promptly, but in no instance longer than ten (10) calendar days after receipt of the request by EPA, make available to EPA all scientific or technical data in its possession or control generated by Respondent, or on behalf of Respondent, that concern the Springfield Facility. Scientific and/or technical data shall include, but is not limited to, all records specifically identified and described in Article V.C. and all background

or preliminary records or documentation that are used in any way as a basis for any reports or studies required by this ADMINISTRATIVE ORDER. Upon request, EPA will make available to Respondent all sampling and analytical data (including split samples) and hydrological or geological information in its possession that pertains to the Springfield Facility.

3. Respondent may assert a business confidentiality claim covering part or all of the information submitted under this ADMINISTRATIVE ORDER in the manner set out in 40 C.F.R. § 2.203(b). The information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B (1986). If no confidentiality claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the Respondent.

4. All records submitted to EPA pursuant to this ADMINISTRATIVE ORDER shall be sent to the designated EPA technical representative.

5. The terms and provisions of this ADMINISTRATIVE ORDER shall not be interpreted or construed as restricting or preventing EPA from requesting information or records pursuant to its authorities under the law.

D. Access to the Site

1. Respondent shall grant EPA and/or its authorized representatives the authority to enter and freely move about all

areas at the Springfield Facility at all reasonable times for the purposes of, inter alia: inspecting records; reviewing the progress of Respondent in carrying out the provisions of this ADMINISTRATIVE ORDER; conducting such tests and taking such samples as EPA deems necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to EPA by Respondent. With the exception of documents covered by the attorney-client privilege or attorney work-product, the Respondent shall permit EPA or its authorized representatives to inspect and copy all records, files, photographs, documents and other writings (including all sampling and monitoring data) which in any way pertains to work undertaken pursuant to this ADMINISTRATIVE ORDER.

2. Nothing herein shall be construed as restricting the inspection or access authority of EPA under federal law or regulations.

E. EPA Oversight

The EPA may appoint an On-Scene Coordinator (OSC) who shall have the authority vested by the National Contingency Plan at 40 C.F.R. Part 300. This includes the authority to halt, conduct or direct any activities required by this ADMINISTRATIVE ORDER and/or any other response actions or portions thereof when

conditions present an imminent and substantial endangerment to the public health or welfare or the environment or when necessary to assure that such activities or actions are not inconsistent with the National Contingency Plan. The OSC, or any person designated by the OSC, shall have the right to move freely about the Springfield Facility at all times when work is being carried out pursuant to this ADMINISTRATIVE ORDER. In the absence of designation of an EPA OSC, EPA's technical representative shall assume the authorities specifically provided for herein.

F. Liability

Neither the United States nor any agency or agents or employees thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent, its officers, directors, employees, agents, servants, receivers, trustees, successors, or assignees, or of any persons, including but not limited to firms, corporations, subsidiaries, contractors or consultants, in carrying out activities pursuant to this ADMINISTRATIVE ORDER, nor shall the United States or any agency or agents or employees thereof be held out as a party to any contract entered into by the Respondent in carrying out activities pursuant to this ADMINISTRATIVE ORDER.

G. Other-Applicable-Laws

All actions required to be taken pursuant to this ADMINISTRATIVE ORDER shall be undertaken in accordance with EPA policies and and guidances and with the requirements of



all applicable local, state and federal laws and regulations, including the National Contingency Plan at 40 C.F.R. Part 300, and CERCLA, as amended by SARA.

H. Delay in Performance

1. If any event occurs which causes delay in the achievement of any of the requirements of this ADMINISTRATIVE ORDER, despite Respondent's good faith efforts, Respondent shall promptly notify EPA's On-Scene Coordinator and/or technical representative orally within twenty-four (24) hours of the event and shall, within seven (7) days of said oral notification to EPA, notify EPA in writing of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement said measures. For purposes of this ADMINISTRATIVE ORDER, such events are defined as any event arising from circumstances beyond the reasonable control of the Respondent which could not be overcome by good faith efforts, including but not limited to: inability to obtain materials or otherwise perform due to an act of God, act of public enemy, war, blockade, public riot, lightning, fire, storm, flood, explosion, labor disputes.

2. The EPA, through its technical representative, shall acknowledge the Respondent's notice of delay and consider granting any appropriate time extension by letter to the Respondent's technical representative.

3. In the event EPA agrees that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of the Respondent, such delay shall not be deemed a violation of either this ADMINISTRATIVE ORDER or applicable law and the time for performance hereunder shall be extended for a period of time to be determined by EPA.

I. Failure to Comply

Respondent is hereby advised that, under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), a Respondent's willful violation or failure or refusal to comply with any provision of this ADMINISTRATIVE ORDER may subject the Respondent to a civil penalty of not more than \$25,000 for each day in which such violation occurs or such failure to comply continues. Under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), a Respondent's failure to comply with any portion of this ADMINISTRATIVE ORDER without sufficient cause, may subject Respondent to liability for punitive damages in an amount up to three times the amount of any costs incurred by the government as a result of Respondent's failure to take proper action.

The effective date of this ADMINISTRATIVE ORDER shall be the date on which it is received by Respondent.

IT IS SO ORDERED:

By

MORRIS KAY  
Regional Administrator  
U. S. Environmental Protection  
Agency  
Region VII

Date